

2002

Book Review

Dena S. Davis

Cleveland State University, d.davis@csuohio.edu

How does access to this work benefit you? Let us know!

Follow this and additional works at: https://engagedscholarship.csuohio.edu/fac_articles

 Part of the [Juvenile Law Commons](#), and the [Religion Law Commons](#)

Original Citation

Dena S. Davis, Book Review, 17 *Journal of Law and Religion* 217 (2002)

This Book Review is brought to you for free and open access by the Faculty Scholarship at EngagedScholarship@CSU. It has been accepted for inclusion in Law Faculty Articles and Essays by an authorized administrator of EngagedScholarship@CSU. For more information, please contact research.services@law.csuohio.edu.

HEINONLINE

Citation: 17 J. L. & Religion 217 2002

Content downloaded/printed from
HeinOnline (<http://heinonline.org>)
Mon May 21 09:35:43 2012

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.
- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

[https://www.copyright.com/ccc/basicSearch.do?
&operation=go&searchType=0
&lastSearch=simple&all=on&titleOrStdNo=0748-0814](https://www.copyright.com/ccc/basicSearch.do?&operation=go&searchType=0&lastSearch=simple&all=on&titleOrStdNo=0748-0814)

WOMEN AND JEWISH LAW: THE ESSENTIAL TEXTS, THEIR HISTORY, & THEIR RELEVANCE FOR TODAY. By Rachel Biale. New York: Schocken Books 1995. Pp. 293. \$12.80. ISBN: 0-805-21049-0.

This book is a minor miracle. It is readable and free of unnecessary jargon, and accessible to the educated reader who has only some introduction to the nature of Jewish law (*Halakhah*). At the same time, it is serious and scholarly and would work very well as a text for a graduate seminar on Jewish law, women and law, or religion and law. The author celebrates the increasing power and visibility of women in all denominations of Judaism, but she does not distort texts in order to push an agenda. Rather, she presents the relevant texts and displays how they can and cannot allow for women's progress in such areas as public prayer, divorce, and sexual relations. Her perspective is that *Halakhah* is intrinsically open to change, and that "the attempt to present a monolithic and extremely conservative portrait of the *Halakhah* is more a characteristic of the response of modern Jewish Orthodoxy to secularism than a central feature of the *Halakhah* in earlier periods." (5) The legal and religious position of women in Judaism, Biale believes, is characterized by tension between two views of the status of women. On the one hand, from the perspective of God, so to speak, women are considered the moral and religious equals of men. On the other hand, in more mundane and concrete ways, their life is marked by subservience to men, and by exclusion from Judaism's most important activity: the study and interpretation of *Halakhah*.

Biale characterizes her book as a "hybrid" of an anthology of *halakhic* sources (in English) and a commentary on the history of Jewish law pertaining to women. This hybrid character makes the book doubly useful, for the sources she presents are extensive enough to allow the reader to engage them directly and to ask her own questions of the classic texts, over and above Biale's interpretations.

In the first, perhaps most fascinating, chapter, Biale lays out the relationship of women to *mitzvot* (religious obligations). The traditional explanation is that women are exempted from all positive *mitzvot* that are time-bound (*e.g.*, to do a certain thing at a certain time). Biale shows the many exceptions to that rule, and comes up with a better generalization: women are exempted from the central duties of public religious life. From that exemption stems the fascinating question of

whether a woman may voluntarily take up duties for which she is not obligated and, if so, whether she is considered as meritorious when performing this voluntary act as she would if it were required. (This is an interesting contrast to much non-Jewish thought, in which an act would be considered *more* meritorious if it were not required.) This discussion grounds the whole question of whether women may study Torah and on what terms, whether they are counted in a *minyan*, whether they can read the Torah aloud for others, and so on. As the study of Torah is *the* central activity of Judaism and the one accorded the most respect, it is obvious that the answers to these questions will do much to shape the place of women in Judaism in the next centuries.

The following chapters focus on what we would call “domestic law:” marriage, divorce, sexuality within and without marriage, procreation and contraception, abortion, and rape. Readers looking to celebrate or criticize the *halakhic* tradition will each find their ammunition: the notorious problem of the *agunah*, who cannot remarry because her husband refuses to finalize their divorce, is not shirked here; but one can also read with wonder that marital rape was recognized and forbidden as early as Maimonides (in contrast to the U.S., where many states still have “marital exemptions” to rape laws).

In the extremely useful Epilogue, Biale sketches the ferment over women’s status that has engaged the attention of all American Jews, not excluding even the secular. She pays particular attention to Cynthia Ozick, Blu Greenberg, and Rachel Adler, three women across the Jewish spectrum who have concentrated their energies on the problem of reconciling Judaism and feminism. Biale’s own conclusion is that there is enough room for change within the *halakhic* framework to allow for full equality for women. But for that to happen, women will have to become leaders within the Jewish world, not only as rabbis (as all but the Orthodox now allow) but as *halakhic* scholars, writers and thinkers.

Dena S. Davis[†]

[†] Professor of Law, Cleveland-Marshall College of Law, Cleveland, Ohio.